

### **REMARKS**

Reconsideration of this application, as presently amended, is respectfully requested.

Claims 1 and 3-9 are now pending in this application, claims 10-12 having been cancelled by the present Amendment. Claims 1 and 3-9 stand rejected.

### **Claim Objections**

Claim 1 was objected to in the final Office Action for a minor informality noted by the Examiner on page 2, Item 2 of the Office Action. Claim 1 has been amended to obviate the informality noted by the Examiner.

### **Claim Rejections Under 35 U.S.C. §§ 102 and 103**

Claims 1, 5-7 and 10 were rejected under 35 U.S.C. § 102(b) as being anticipated by **Anderson et al.** (USP 5,861,918). Claims 8 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over **Anderson et al.** '918 in view **Anderson et al.** (USP 6,507,363). Claims 3 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over **Anderson et al.** (USP 5,861,918) in view of **Inoue et al.** (USP 6,226,449, previously cited). Claims 9 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over **Anderson et al.** (USP 5,861,918). For the reasons set forth in detail below, these rejections, to the extent they are considered to apply to the currently amended claims, are respectfully traversed.

**Anderson et al.** '918 discloses a system and method for managing a removable memory used in a digital camera. More particularly, the method and system disclosed in **Anderson et al.**

'918 allows the removable memory to be used with more than one digital camera without image naming conflicts by creating a "camera folder" on the removable memory corresponding to the particular digital camera when the removable memory is first inserted into the digital camera. When images are captured by the digital camera, the images are stored only in the folder corresponding to the particular digital camera currently being used with the memory card. The folder can be made unique by generating a name for the folder from the serial number of the digital camera (see, e.g., column 2, lines 16-25).

Thus, according to **Anderson et al.** '918, a single removable memory can be used to store images taken by different digital cameras, while avoiding image name conflicts (see column 2, lines 26-32).

In operation of the **Anderson et al.** '918 system, when a removable memory 354 is inserted into a digital camera, a camera folder or directory is created on the removable memory corresponding to that particular digital camera (column 5, lines 32-35). Additional folders are created when the removable memory is used with other digital cameras (column 5, lines 35-42).

As shown in Fig. 7A, when the operating system finds folders in the removable memory 354, the folders are displayed in a viewfinder 402 along with their unique folder names (folders C1523460 and C9347825 in Fig. 7A). When a user selects one of the folders, the images stored in the selected folder are displayed in the viewfinder 402 (see column 6, lines 49-57). For example, as shown in Fig. 7B, images IM000324 – IM000340 are displayed (along with user created subfolders) in response to selecting folder C1523460. Fig. 7C shows the images stored in folder C9347825.

Claims 1 and 5-7

The Examiner is apparently interpreting the language “a file number detector for detecting the *number* of files managed by the folder...” and “a file number displayer for displaying the *number* of files detected...” to mean that the various file numbers (e.g., IM000324, IM000325, etc., see Fig. 7B) of the files stored in a folder are detected and displayed.

Claim 1 has been amended to further clarify that the file number detector detects *a count of* the number of files managed by a selected folder.

**Anderson et al.** ‘918 does not detect and display a count of the number of files managed by a selected folder. **Anderson et al.** ‘918 simply displays various file identifiers (e.g., IM000324, IM000325, etc.) when a folder is selected. The identifiers do not indicate a count of the number of files managed by the selected folder.

Moreover, it is respectfully submitted that Examiner is interpreting the claim language more broadly than is permissible. More specifically, it is submitted that the “count detected by said file number detector” and “the folder identification numbers” are displayed at the same time because a “screen” and a “display” are different. Although **Anderson et al.** ‘918 teaches using the *same display* to display folders and files, the folders and files are displayed on *different screens*. **Anderson et al.** does not teach displaying a count of the number of files and folder identification numbers on a screen. According to **Anderson et al.** ‘918, the folders and files are clearly displayed separately at different times.

Claim 8

The Examiner applies **Anderson et al.** '363 in combination with **Anderson et al.** '918 to reject claim 8. **Anderson et al.** '363 teaches a system for automatically generating a plurality of folders for a digital camera that creates a new folder when it is detected that the current folder is full. **Anderson et al.** '918 suggests a full folder is a folder having 100 images (see. e.g., col. 7, lines 58-67 and Fig. 9, steps 464 and 456).

Claim 8, which depends from claim 1, distinguishes over the combination of **Anderson et al.** '918 and **Anderson et al.** '363 for the same reasons set forth above with respect to claim 1 because **Anderson et al.** '363 does not alleviate the deficiencies of **Anderson et al.** '918 detailed above.

Claims 3 and 4

Claims 3 and 4 were rejected over **Anderson et al.** '918 in view of **Inoue et al.** The **Inoue et al.** reference was cited to teach displaying a total number of files. However, **Inoue et al.** do not alleviate the deficiencies of **Anderson et al.** '918 with respect to claim 1.

Because claims 3 and 4 depend from claim 1, claims 3 and 4 should be allowable for the same reasons set forth above with respect to claim 1.

Claim 9

In rejecting claim 9 under §103 over **Anderson et al.** '918, the Examiner recognizes that "Anderson is silent about a file mover for moving a file from a folder to another folder when a

file moving operation is carried out, wherein the another folder is arbitrarily selected from among the plurality of folders formed in the recording medium.” However, the Examiner takes Official Notice that the feature missing from Anderson et al. ‘918 is notoriously well-known. See Office Action, page 6, Item 6.

First, it is submitted that claim 9, which depends from claim 1, is allowable for the same reasons as claim 1.

Second, although in limited circumstances it is appropriate for an Examiner to take official notice of facts not in the record or to rely on “common knowledge” in making a rejection, official notice should only be taken where the facts asserted to be well-known are “capable of instant and unquestionable demonstration as being well-known” (Manual of Patent Examining Procedure (MPEP) §2144.03A).

Applicants traverse the Examiner’s assertion that the features in claim 9 that are missing from the **Anderson et al.** ‘918 reference are “notoriously well known.” Specifically, according to MPEP §2143.03C, “if applicant adequately traverses the Examiner’s assertion of official notice, the examiner must provide documentary evidence (i.e., a reference) in the next Office Action if the rejection is to be maintained.”

The Examiner’s assertion of official notice is traversed for the following reasons.

Specifically, the Examiner is taking official notice in a §103 rejection. The MPEP §2143.03B makes clear that the courts have recently held that general conclusions concerning what is “basic knowledge” or “common knowledge” to one of ordinary skill in the art without

specific factual findings and some concrete evidence in the record to support those findings *will not support an obviousness rejection*.

Therefore, on this basis alone it is submitted that the Examiner must present specific evidence in the form of a reference supporting the material with respect to which official notice is taken and must incorporate that evidence into the rejection. The Examiner is requested to cite a reference in support of the material with respect to which official notice was taken.

Furthermore, the **Anderson et al.** '918 reference is directed to a system that creates separate folders for image files each time the removable memory 354 is inserted into a different camera. **Anderson et al.** '918 emphasizes that when images are captured, the images are stored *only* in the folder created for that camera. **Anderson et al.** '918 also emphasizes that preventing image naming conflicts is an objective.

Thus, **Anderson et al.** '918 teaches away from having a file mover for moving a file from a folder to another arbitrarily selectable folder. Specifically, moving files to different folders defeats the purpose of storing images only in folders created for those images. In the absence of some hint or suggestion in the **Anderson et al.** '918 reference of the desirability of moving files, the requisite motivation for modifying the **Anderson et al.** '918 reference has not been provided.

In accordance current law and the MPEP, the §103 rejection should be withdrawn and a new rejection issued, if appropriate, citing a reference in support of the "file mover" feature of claim 9.

**CONCLUSION**

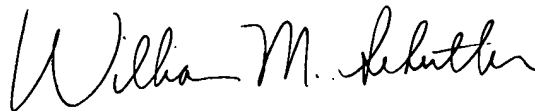
In view of the foregoing amendments and accompanying remarks, it is submitted that all pending claims are in condition for allowance. A prompt and favorable reconsideration of the rejection and an indication of allowability of all pending claims are earnestly solicited.

If the Examiner believes that there are issues remaining to be resolved in this application, the Examiner is invited to contact the undersigned attorney at the telephone number indicated below to arrange for an interview to expedite and complete prosecution of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

**WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP**

A handwritten signature in black ink, appearing to read "William M. Schertler". The signature is fluid and cursive, with the first name "William" being the most prominent part.

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